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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

JAN - 4 1993

In the Matter of)
Amendment of § 73.202(b) Table of) MM Docket No. 92-245
FM Broadcast Stations,)
(Frederiksted, Virgin Islands)) RM-8026

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

COMMENTS AND COUNTERPROPOSAL

El Mundo Broadcasting Corporation, licensee of WKAQ-FM, San Juan, P.R. ("WKAQ"); Estereotempo, Inc., licensee of WIOC-FM, Ponce, P.R. ("WIOC"); Radio Redentor, Inc., licensee of WERR-FM, Utado, P.R. ("WERR"); and Aurio Matos, licensee of WNNV-FM, Aguada, P.R. ("WNNV") collectively as "Joint Commenters", by their attorney and pursuant to §§ 1.415 and 1.420 of the Commissions Rules, hereby submit their comments and counterproposal in response to the Notice of Proposed Rule Making, DA 92-1368, released on November 12, 1992, (the "NPRM"). The NPRM was issued in response to a petition filed by Jose J. Arzuaga proposing the allotment of Channel 298A to Frederiksted, Virgin Islands as that community's second local aural service. Joint Commenters propose as an alternative, adding Channel 282A at Frederiksted, V.I. to the FM Table of Allotments. In support thereof, Joint Commenters state as follows:

I. Background

Mr. Arzuaga originally proposed the allotment of Channel 266A to Frederiksted, V.I. However, the Commission's engineering analysis led to the conclusion that Channel 266A could not be allotted there because of a conflict with another pending proposal. The Commission found an alternate channel, Channel 298A, so that

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Frederiksted could have its second local service. The Joint Commenters propose allotting Channel 282A to Frederiksted instead of Channel 298A, which will allow the entire counterproposal of the Joint Commenters to be adopted. If adopted, the Joint Commenters counterproposal will provide first local service to Gurabo, Puerto Rico and allow WNNV-FM, Aguada, Puerto Rico to provide enhanced service to that community by allowing the station to upgrade from a Class A to a Class B1 facility.

II. The Counterproposal

A. Revised Table of Allotments

The Joint Commenters propose amending the FM Table of Allotments as follows:

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Aguada, P.R.	288A	287B1
Gurabo, P.R.	-----	281B
Utuaado, P.R.	281B	-----
San Juan, P.R.	229B, 253B, 260B, 273B, 284B , 289B	229B, 253B, 260B, 273B, 285B , 289B
Ponce, P.R.	227B1, 266B, 270B, 286B	227B1, 266B 270B, 283B
Charlotte Amalie, V.I.	241B1, 246B , 250B, 271B, 282B , 287B	241B1, 250B, 267B , 271B, 287B, 298B ^{1/}

^{1/} The Commission released a Notice of Proposed Rule Making on November 10, 1992 in MM Docket 92-244 proposing to substitute Channel 267B for Channel 246B at Charlotte Amalie, V.I. The Joint Commenters will be filing comments and the instant counterproposal

Carolina, P.R.	299B	300B
Frederiksted, V.I.	278A	278A, 282A
Christiansted, V.I.	228B, 236B 258B, 262B 291B	228B, 236B 258B, 262B 274A, 291B ^{2/}

To facilitate the enhanced service at Aguada, P.R. and the new service at Gurabo, P.R., and the two other changes the Joint Commenters request, alternate channels must be allotted in three pending rulemaking proceedings and two other Commission authorized facilities at Carolina, P.R. and Charlotte Amalie, V.I. must be allotted different frequencies.

B. Discussion of Proposed Changes

WNNV-FM, Aguada, Puerto Rico

WNNV is presently licensed to operate on Channel 288A. The Joint Commenters propose amending the Table of Allotments by substituting Channel 287B1 for Channel 288A, and continuing operation from WNNV's presently licensed site. This will allow WNNV to continue to place a city grade signal over its community of license in compliance with § 73.315(a) of the Rules. It will also allow WNNV to serve a total of 554,763 persons in its 1.0 mV/m contour, an increase of 45,788 persons over its present service. (See Engineering Exhibit, ¶ 18).

in that proceeding.

^{2/} The Commission released an Notice of Proposed Rule Making on November 17, 1992 in MM Docket No. 92-247 proposing to allot Channel 285A to Christiansted, V.I. The Joint Commenters will be filing comments and the instant counterproposal in that proceeding.

WNNV is the only local aural service licensed to Aguada, P.R., thus enhanced service by the only local station to that community, without any loss of service, is in the public interest. WNNV pledges to promptly file an application for a minor modification in the event the Commission approves its proposed upgrade from Channel 288A to 287B1.

Gurabo, P.R. and Utuado, P.R.

Pursuant to § 1.420(i) of the Commission's Rules, the Joint Commenters propose allotting Channel 281B to Gurabo, P.R. and deleting the allotment of that same channel to Utuado, P.R. and allowing WERR to change its community of license to Gurabo, P.R. ^{3/} From its new site, WERR will place a 1.0 mV/m signal over Utuado, P.R. and provide city grade coverage to Gurabo, P.R., providing that community's first local service. Utuado, P.R. will continue to receive full-time local service from AM Station WUPR, which is licensed to Utuado, P.R.. In addition, at its new site, WERR will provide service to 2,410,819 persons within its 1.0 mV/m contour, representing a increase of more than 20% from its present 1.0 mV/m population. ^{4/}

Gurabo, P.R. is a community of 9,199 persons, according to the

^{3/} Section 1.420(i) provides that in the course of a rule making proceeding to amend §73.202(b), the Commission may modify the license or permit of an FM broadcast station to specify a new community of license where the amended allotment would be mutually exclusive with the licensee's or permittee's present assignment.

^{4/} From its new site, WERR will no longer serve a portion of western Puerto Rico, however, the area that WERR will no longer serve is will be served by more than 5 other full time aural services. See Engineering Exhibit, n.7 and Exhibit # 5.

1990 U.S. Census. It is governed by an "Alcalde" or Town Governor who works with an elected assembly to administer services to Gurabo. ^{5/} The town of Gurabo, P.R. has its own public schools, police and fire departments and a local hospital. It has its own zip code (00778) and post office as well and many retail stores and several office buildings. Thus, consistent with Commission guidelines, Gurabo, P.R. is a community for allotment purposes. See, Revision of FM Assignment Policies and Procedures, 90 F.C.C. 88, 101 (1982).

WKAQ-FM, San Juan, P.R.

In order to facilitate the counterproposal, the Joint Commenters propose amending the Table of Allotments to substitute Channel 285B for Channel 284B at San Juan, P.R. WKAQ is presently licensed to operate on Channel 284B in San Juan, P.R.

WKAQ is owned by one of the Joint Commenters. It agrees to prepare and promptly file an application to modify its license to specify operation on Channel 285B in the event the Joint Commenters counterproposal is adopted. At its new site, WKAQ will serve 181,010 more people in its 1.0 mV/m contour than its present operation provides. See Engineering Exhibit, n. 8.

WIOC(FM), Ponce, P.R.

The Joint Commenters also propose amending the FM Table of Allotments by substituting Channel 283B for Channel 286B at Ponce,

^{5/} Gurabo is not located in any U.S. Census Urbanized Area, according to both the 1980 and 1990 census.

P.R. From its Channel 283B site, Ponce, P.R. will provide service to 1,765,279 people within its 1.0 mV/m contour, and increase of over 1.3 million people when compared to its present operation. WIOC is also owned by one of the Joint Commenters and it too pledges to promptly file an application for construction permit upon the Commission's adopting the proposed channel change.

WVNX-FM, Charlotte Amalie, V.I.

The licensee requested a change in frequency assigned to this facility because of an interference problem with a station operating on Channel 247 in the British Virgin Islands. WVNX proposes Channel 267B as a new frequency, while the Joint Commenters propose Channel 298B. Only the use of Channel 298B will allow the Joint Commenters proposal to be implemented, and that proposal provides public interest benefits that cannot be realized if Channel 267B is allotted to Charlotte Amalie. Channel 298B meets all relevant spacing requirements and WVNX will not have to move its transmitter site. In addition, there will be no loss of service if WVNX were to transmit on Channel 298B.

Since the station has already proposed a channel change, ^{6/} the Joint Commenters should not be responsible for reimbursing the any cost of relocation.

WIYC-FM, Charlotte Amalie, V.I.

The Joint Commenters propose amending the Table of Allotments

^{6/} See RM-8027 in MM Docket 92-244 as proposed in the Commission's Notice of Proposed Rule Making, DA 92-1370, released November 10, 1992.

by substituting Channel 267B for Channel 282B in Charlotte Amalie and amending the license of WIYC to specify operation on the new channel. The channel change can be effected at the station's licensed transmitter site, and thus the station will furnish the same city grade coverage over Charlotte Amalie, V.I. as it presently provides. The channel change is necessary in order for the public interest benefits inherent in the counterproposal to be realized. The Joint Commenters agree to reimburse WIYC for the reasonable costs associated with the proposed modification of its license.

WVOZ-FM, Carolina, P.R.

WVOZ is presently licensed to operate on Channel 299B in Carolina, P.R. To effectuate its counterproposal, the Joint Commenters propose amending the Table of Allotments by substituting Channel 300B for Channel 299B at Carolina, P.R. This channel change can be accomplished from WVOZ's present transmitter site, so that the station would experience no change in city grade and other relevant coverage contours. Because this proposed channel change is involuntary, the Joint Commenters agree to reimburse WVOZ for the reasonable expenses incurred in changing its frequency of operation.

Frederiksted, V.I.

Instead of allotting Channel 298A to Frederiksted, V.I., as

proposed by the Commission, ^{7/} the Joint Commenters propose the allotment of Channel 282A there. The allotment of Channel 282A can be accomplished at the same reference coordinates proposed by the Commission.

Christiansted, V.I

The Commission has proposed allotting Channel 285A to Christiansted as its sixth local FM service. ^{8/} The Joint Commenters request that Channel 274A be allocated instead of Channel 285A. The same reference coordinates as the Commission has proposed can be used to accommodate Channel 274A.

C. Public Interest Benefits of the Counterproposal

Section 307(b) of the Communications Act of 1934, as amended, assigns the Commission the task of providing a "fair and equitable distribution of radio services." In allotting FM frequencies, the Commission established, in order of importance, these priorities to determine whether particular allotments are in the public interest:

1. First full-time aural service;
2. Second full-time aural service;
3. First local service;
4. Other public interest matters.

[Co-equal weight given to priorities 2 and 3]

^{7/} See Notice of Proposed Rule Making, DA 92-1368, released November 12, 1992, relating to RM-8026 in MM Docket 92-245.

^{8/} See Notice of Proposed Rule Making, DA 92-1396, released November 17, 1992, addressing RM-8098 in MM Docket No. 92-247.

Revision of FM Assignment Policies and Procedures, 90 F.C.C. 2d 88, 91 (1982)

The Commission amended its rules to allow FM and television licensees and permittees to specify new communities of license in a rulemaking context, without facing the risk of losing an existing allotment. Amendment of Commission's Rules Concerning Modification of FM and TV Authorizations to Specify a New Community of License, 4 FCC Rcd 4870, 66 RR 2d 877 (1989) (the "Community of License Order"). The Commission decided to use the same four priorities to "...compare the proposed allotment plan to the existing state of allotments for the communities involved" to determine which would result in a "preferential arrangement of allotments." Id. at 882. On reconsideration of the Community of License Order, the Commission acknowledges that "provision of first local service is the highest of our allotment priorities which remains in any significant degree unsatisfied." Amendment of Commission's Rules Concerning Modification of FM and TV Authorizations to Specify a New Community of License, 5 FCC Rcd 7094, 7096 (1990) (the "Reconsideration Order").

Allowing WERR to change community of license from Utuado, P.R. to Gurabo, P.R. as the Joint Commenters propose, will provide first local service to a substantial community, Gurabo, P.R., while Utuado, P.R., will continue to be served by a full-time local, aural facility. This not only furthers one of the Commission's most important goals in adopting the Community of License rules, -that of providing first local service to as many communities as possible- but also WUPR(AM) will continue to provide full-time

local aural service to Utuado, P.R.

The Joint Commenters proposal also allows WNNV to upgrade its facility and provide improved service to Aguada, P.R. The upgrade will allow an 8% increase in the population the station serves in its 1 mV/m contour. As the only local service allotted to Aguada, P.R., the upgrade is important to community of Aguada, P.R., and is clearly in the public interest.

The Joint Commenters proposal allows the upgrade and the change in community of license to take place without any cognizable service loss.^{9/} Thus, in evaluating the "totality of service improvements resulting from [the] proposed change in community of license", as required by the Community of License Order, it is clear that the Joint Commenters proposal should be approved because it furthers Commission priorities (3) and (4).^{10/}

The Joint Commenters proposal requires only two substitutions of channels occupied by existing stations (WVOZ and WIYC) and is thus in compliance with Commission policy. Dyersburg, TN, et al., 4 FCC Rcd 4814, 4815 ¶ 11 (Chief, Allocations Branch, 1989); Kaukauna & Cleveland, Wisconsin, 6 FCC Rcd 7142 (Ass't Chief, Allocations Branch, 1991). The two stations whose channels need to

^{9/} The only service loss is the area WERR-FM will no longer serve if it is allowed to move its transmitter site, however, the area it will no longer serve is already served by at least five other full-time aural services. WERR-FM will continue to put a city grade signal over its present community of license, Utuado, P.R.

^{10/} And co-equal weight is given to priorities (2) and (3). Since none of the competing proposals provide advancement of priorities (1), (2) or (3), the Joint Commenters proposal represents the most preferential arrangement of allotments and should be adopted.

be substituted in order to facilitate the counterproposal will be able to continue to operate at their presently licensed sites. Cf. North Charleston, SC, 47 Fed. Reg. 10560 (March 11, 1982).

III. Conclusion

The Joint Commenters counterproposal meets all Commission technical specifications, will provide first local service to the community of Gurabo, P.R. and enhanced service to the community of Aguada, P.R. All of this can be done by changing the channels of only two existing stations. By adopting all of the changes proposed by the Joint Commenters, 2 million more persons will be in the 1 mV/m contours of the four Joint Commenters stations than presently served. The public interest will be served by adopting the counterproposal of the Joint Commenters and allotting Channel 282A at Frederiksted, V.I. instead of Channel 298A.

Respectfully submitted,

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January 4, 1993



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COMMENTS AND COUNTERPROPOSAL
MM DOCKETS #92-244/92-245/92-247
MATOS/RRI/EMBC/EI
VARIOUS COMMUNITIES IN
PUERTO RICO AND U.S. VIRGIN ISLANDS
December 1992

Technical Exhibit
TE-1

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COMMENTS AND COUNTERPROPOSAL
MM DOCKETS #92-244/92-245/92-247
MATOS/RRI/EMBC/EI
VARIOUS COMMUNITIES IN
PUERTO RICO AND U.S. VIRGIN ISLANDS
December 1992

TECHNICAL STATEMENT

1. These technical comments and attached exhibits were prepared on behalf of Aurio Matos ("Matos"), licensee of Radio Station WNNV, Channel 288A, Aguada, Puerto Rico, Radio Redentor, Inc. ("RRI"), licensee of Radio Station WERR, Channel 281B, Utuado, Puerto Rico, El Mundo Broadcasting Corporation ("EMBC"), licensee of Radio Station WKAQ-FM, Channel 284B, San Juan, Puerto Rico, and Estereotempo, Inc. ("EI"), licensee of Radio Station WIOC, Channel 286B, Ponce, Puerto Rico. These parties, jointly referred to as "Commenters" file these comments and counterproposals in three dockets currently under consideration by the Commission (MM Dockets #92-244, #92-245 and #92-247).

2. The Commenters desire to make changes in §73.202(b) of the Commission's rules in order to facilitate the improvement of their respective facilities as outlined below. As will be shown, these proposals are mutually exclusive with the channels being considered for allotment in the three above active dockets. The changes proposed by the Commenters can be made without the denial of service to any of the other proposed allocations.

SYNOPSIS

3. Commenters herein request the following changes to §73.202(b) of the Commission's rules (FM Table of Allotments): first, that Channel 287B1 be substituted for Channel 288A at Aguada, Puerto Rico; that Channel 283B be substituted for Channel 286B at Ponce, Puerto Rico; that Channel 285B be substituted for Channel 284B at San Juan, Puerto Rico; and that Channel 281B at Gurabo, Puerto Rico, be substituted for Channel 281B Utuado, Puerto Rico. In order to effectuate these four requests, additional changes are necessary as detailed below.

4. In order to accommodate the allocation of Channel 287B1 to Aguada, Puerto Rico, Channel 283B must be substituted for Channel 286B at Ponce, Puerto Rico as noted above. In order to accommodate Channel 283B at Ponce, Channel 285B must be substituted for Channel 284B at San Juan, Puerto Rico and a change of community of license for WERR (Channel 281B) at Utuado, Puerto Rico, to Gurabo, Puerto Rico, is necessary, also noted above. Further, the San Juan substitution is dependent on the substitution at Ponce, above. It is further necessary to allocate an alternate channel for Christiansted, Virgin Islands, as proposed in MM Docket #92-247. Channel 274A can be allocated to Christiansted in lieu of Channel 285A.

5. In order to allocate Channel 281B to Gurabo, Puerto Rico, it is necessary to substitute Channel 285B for Channel 284B at San Juan (above) and, further, to substitute Channel 267B for Channel 282B at Charlotte Amalie, Virgin Islands.

6. WIYC presently operates on Channel 282B at Charlotte Amalie. In order to accommodate the substitute channel for WIYC it is necessary to locate an alternative channel for WVN~~X~~, Channel 246B, Charlotte Amalie. Presently WVN~~X~~, in MM Docket #92-244, is requesting Channel 267B be substituted for Channel 246B (in order to eliminate interference from a British Virgin Islands facility). As shown below, Channel 298B can be substituted for Channel 246B at Charlotte Amalie, provided that Channel 282A is allocated to Fredricksted, Virgin Islands, in lieu of Channel 298A as proposed by Jose J. Arzuaga in MM Docket #92-245. Further, that Channel 300B is substituted for Channel 299B at Carolina, Puerto Rico, and that WVOZ-FM is ordered to change channels.

7. In summary, in order to effectuate the four changes requested by the Commenters, it is necessary to find alternate channels for the allotments being considered in MM Dockets #92-244, #92-245 and #92-247, as well as substituting channels for two other Commission authorized facilities at Carolina, Puerto Rico, and Charlotte Amalie, Virgin Islands.

PROPOSAL

8. Channel 287B1 can be allotted to Aguada, Puerto Rico, at North Latitude 18° 19' 31" and West Longitude 67°

10' 13" (the present WNNV transmitter site). From the reference site Aguada will continue to receive greater than 3.16 mV/m signal. Exhibit #1 is a usable area study for Channel 287B1 which shows, from the proposed reference site, the city grade signal will encompass the community. In addition, the map demonstrates the limiting stations which make up the usable area for Channel 287B1. Exhibit #2 is a Channel 287B1 allocation study for Aguada. Both exhibits assume that Channel 283B has been substituted for Channel 286B at Ponce, Puerto Rico.

9. Channel 281B can be allocated to Gurabo, Puerto Rico, at reference coordinates North Latitude 18° 17' 25" and West Longitude 66° 00' 08". This represents a site restriction of 4.6 kilometers northwest of the community. From the reference site a 3.16 mV/m contour can be placed over all of Gurabo. Exhibit #3 is a usable area map which confirms that the city grade signal can be placed over Gurabo and also shows the stations which limit the area in which a transmitter site can be located for this channel. Exhibit #4 is a detailed spacing analysis which shows Channel 281B at Gurabo meets §73.207 clearances to all other licensed, applied for or proposed facilities. Both Exhibits #3 and #4 assume that Channel 285B has been substituted for Channel 284B at San Juan, Puerto Rico, and that Channel 267B has been substituted for Channel 282B at Charlotte, Amalie, Virgin Islands.

10. Channel 285B can be allocated to San Juan, Puerto Rico, at reference coordinates North Latitude 18° 06' 54" and West Longitude 66° 03' and 10". This represents a site restriction of 39.5 kilometers south/southeast of the community in order to accommodate EMBC's preferred location. ¹ From this location, a maximum Class B facility will provide the requisite 3.16 mV/m contour over San Juan. Exhibit #6 is a usable area analysis which shows from this reference site the 3.16 mV/m contour does encompass San Juan. In addition, it shows the stations which limit the usable area for Channel 285B at San Juan. Exhibit #7 is a §73.207 spacing analysis which demonstrates Channel 285B meets the Commission's spacing requirements to all other licensed, applied for or proposed facilities, assuming Channel 283B is substituted for Channel 286B at Ponce and that Channel 274A is allocated to Christiansted, Virgin Islands, rather than Channel 285A.

11. Channel 283B can be allocated to Ponce, Puerto Rico, at reference coordinate North Latitude 18° 08' 00" and West Longitude 66° 46' 00". This represents a site restriction of 21.1 kilometers northwest of the community. From this hypothetical reference point, a 3.16 mV/m contour can be delivered over Ponce as demonstrated on Exhibit #8.

1) These are the same coordinates for the licensed site of WKAQ (TV), Channel 2, San Juan, Puerto Rico.

Exhibit #8 also shows the stations which limit the usable are for Channel 283B at Ponce. Exhibit #9 is a §73.207 spacing analysis which shows Channel 283B from the herein proposed reference coordinates meets the Commission's spacing requirements to all other licensed, applied for or proposed facilities. Both Exhibits #8 and #9 assume that Channel 285B has been substituted for Channel 284B at San Juan and that Channel 281B has been allocated to Gurabo, Puerto Rico in substitution for Channel 281B at Utuado, Puerto Rico.

12. Channel 267B can be allocated to Charlotte Amalie, Virgin Islands, at reference coordinates North Latitude 18° 21' 31" and West Longitude 64° 58' 21". This the currently licensed site of WIYC. From this location WIYC will continue to provide the same level of 3.16 mV/m signal over Charlotte Amalie, since no change in operating facilities, with the exception of channel, is proposed. Exhibit #10 is a §73.207 spacing analysis which demonstrates that Channel 267B can be allocated to Charlotte Amalie at the present WIYC site. This allocation assumes that the proposed substitution of channels requested in MM Docket #92-244 are changed as described further below.

13. Channel 298B can be substituted for Channel 246B at Charlotte Amalie at reference coordinates North Latitude 18° 20' 30" and West Longitude 64° 43' 59". This is the presently authorized construction permit site of WVNK,

Charlotte Amalie. From this location, a 3.16 mV/m signal will continue to be provided over Charlotte Amalie. Exhibit #11 is a §73.207 spacing analysis for Channel 298B at Charlotte Amalie and shows this channel meets the Commission's spacing requirements to all other licensed, applied for or proposed facilities. Exhibit #11 assumes that Channel 300B has been substituted for Channel 299B at Carolina, Puerto Rico, and that Channel 282A is allocated to Fredricksted, Virgin Islands, in lieu of Channel 298A as proposed in MM Docket #92-245.

14. Channel 300B can be allocated to Carolina, Puerto Rico, at reference coordinates North Latitude 18° 24' 10" and West Longitude 66° 03' 21". These are the same coordinates as the presently licensed WVOZ-FM transmitter site. Carolina will continue to receive the same level of signal from WVOZ-FM on Channel 300B as presently provided on Channel 299B. Exhibit #12 is a §73.207 spacing analysis which shows Channel 300B meets the Commission's spacing requirements to all other licensed, applied for or proposed facilities (with the exception of the presently allocated Channel 299B).

15. Channel 282A can be allotted to Fredricksted, Virgin Islands, at reference coordinates North Latitude 17° 42' 48" and West Longitude 64° 53' 00". This is the same site proposed in MM Docket #92-245 for Channel 298A. Exhibit #13 is a §73.207 spacing analysis for Channel 282A and shows

the channel meets the Commission's spacing requirements to all other licensed, applied for or proposed facilities, without the imposition of any site restriction from the community of Fredricksted.

16. Channel 274A can be allocated to Christiansted, Virgin Islands, at reference coordinates North Latitude 17° 45' 00" and West Longitude 64° 46' 50". Exhibit #14 demonstrates this channel meets the Commission's spacing requirements (§73.207) from the reference coordinates to all other licensed, applied for or proposed facilities. These are the same coordinates proposed by Clayton Knight in MM Docket #92-247 and represents an 8.0 kilometer site restriction west of the community.

17. Therefore, the Commenters request the following amendment to the Commission's Table of Allotments §73.202(b):

Aguada, Puerto Rico

Present

288A

Proposed

287B1

Gurabo, Puerto Rico

Present

None

Proposed

281B

Utuado, Puerto Rico

Present

281B

Proposed

None ²

San Juan, Puerto Rico

Present

229B, 253B, 260B
273B, 284B, 289B

Proposed

229B, 253B, 260B
273B, 285B, 289B ³

Ponce, Puerto Rico

Present

227B1, 266B
270B, 286B

Proposed

227B1, 266B
270B, 283B

Charlotte Amalie, Virgin Islands

Present

241B1, 246B, 250B
271B, 282B, 287B

Proposed

241B1, 250B, 267B
271B, 287B, 298B

Carolina, Puerto Rico

Present

299B

Proposed

300B

2) WUPR (AM), 1530 kHz, 1.0 kW (D), 250 w (N) will remain licensed to the community of Utuado.

3) The Commission is presently considering a change of allotments at San Juan which may substitute Channel 256B for Channel 253B (MM Docket # 91-259).

Fredricksted, Virgin Islands

Present

278A

Proposed

278A, 282A

Christiansted, Virgin Islands

Present

228B, 236B, 258B
262B, 291B

Proposed

228B, 236B, 258B
262B, 274A, 291B

PUBLIC INTEREST MATTERS

18. When Channel 287B1 is allotted to Aguada, Puerto Rico, WNNV will be able to provide service to 554,763 persons within its upgraded 1.0 mV/m contour. This represents an increase of population of 45,788 persons over its present Class A operation, with no loss of service. ⁴ When Channel 281B is allocated to Gurabo, Puerto Rico, it will enable WERR to provide service to 2,410,819 persons within its potential 1.0 mV/m contour. This represents an increase of 423,718 persons over its presently licensed facility in Utuado, Puerto Rico. In addition it will provide Gurabo, a community of 9,199 people with its first local service without depriving Utuado of its only licensed facility. ⁵ Radio Station WUPR (AM), 1530 kHz will continue to provide

4) Population information extracted from Dataworld population files utilizing 1986 updated census figures from the United States census. (1990 computerized data for Puerto Rico is not presently available).

5) The population of is from 1990 U.S. Census.

full-time service to Utuado after the re-allocation is made. Gurabo is not located in any Urbanized Area, according to both the 1980 and 1990 U.S. Census. No migration from a rural to urban community is proposed. ⁶

19. Additionally, WERR can theoretically provide 1.0 mV/m service over Utuado from the reference site proposed in these comments, as demonstrated in Exhibit #5. While the exhibit shows a portion of the western part of Puerto Rico will lose service from WERR, this area presently receives service from more than five other full-time FM stations. ⁷

20. Further, when Channel 285B is allocated to San Juan, it will enable WKAQ-FM to provide service to 2,423,160 persons in its improved 1.0 mV/m contour. This represents an increase of 181,010 persons over its presently authorized Class B facility on Channel 284B. There is an area presently served by WKAQ-FM which will not continue to receive service from that station (as proposed herein). This area is small in nature when compared to the overall gain of service. ⁸ When WIOC relocates its facility on Channel 283B, it potentially

⁶) Utuado has a 1990 population of 9,943 persons.

⁷) WTPM, Channel 225B, Aguadilla, WOYE-FM, Channel 231B, Mayaguez, WRPC, Channel 238B, San German, WAEL-FM, Channel 241B, Maricao, WKJB-FM, Channel 256B, Mayaguez (all Puerto Rico) with a combination of WRIO, Channel 268B, Ponce, and WCMN-FM, Channel 297B, Arecibo (both Puerto Rico) making up a sixth full time service.

⁸) The entire loss area will continue to receive full-time service from WORO, Channel 223B, Corozal, WNRT, Channel 245B, Manati, WXYX, Channel 264B, Bayamon, WZAR, Channel 270B, Ponce, WCHQ-FM, Channel 275B, Camuy, WNIK-FM, Channel 293B1, Arecibo, and WCMN-FM, Channel 297B, Arecibo (all Puerto Rico).

will provide service to 1,765,279 persons within its hypothetical new 1.0 mV/m contour. This represents an increase of 1,357,706 persons over its presently authorized Class B facility with no loss of service. *

21. Combining the net gain figures of the four comment requests shows 2,008,222 persons will receive service from the improved WNNV, WIOC, WKAQ-FM and WERR. Where there is loss of present service, as noted above, those persons will continue to be adequately served by other, existing stations. Additionally, Gurabo will receive its first local licensed service, without depriving Utuado of its only licensed facility.

22. The substitution of channels for WIYC at Charlotte Amalie, Virgin Islands, and WVOC-FM Carolina, Puerto Rico, will only be impacted by the change of channel, no loss of service will be created at these two communities. Additionally, the three other allocations proposed in MM Docket #92-244, #92-245 and #92-247 can be implemented, each providing for improved or new service to the communities proposed in the individual dockets (although frequencies other than originally proposed may be used).

23. When Channel 287B1 is allotted to Aguada, Puerto Rico, Matos will file, on a timely basis, an application for construction permit to make minor changes in the facilities of WNNV to effectuate the upgrade to Channel 287B1. When

* See footnote 5.

Channel 281B is allocated to Gurabo, RRI will file, on a timely basis, an application for construction permit, seeking authority to make changes to the licensed facilities of WERR to specify operation at Gurabo, Puerto Rico.

24. When Channel 285B is allocated to San Juan, Puerto Rico, EMBC will file, on a timely basis, an application for construction permit FCC Form 301 to make minor changes in the facilities of WKAQ-FM to specify operation on Channel 285B. When Channel 283B is allocated to Ponce, Puerto Rico, EI will file, on a timely basis, an application for construction permit to make minor changes in the facilities of WIOC.

25. The Commenters jointly pledge to reimburse the licensees of WIYC, Charlotte Amalie, Virgin Islands, and WVOZ-FM, Carolina, Puerto Rico, for reasonable expenses in order to effectuate the channel changes requested herein. The permittee of WVNK, having already proposed to substitute channels at Charlotte Amalie, should not be entitled to reimbursement, since it is petitioning to change its own allotment. These requests merely suggest an alternative channel for that community. Further, the Commenters do not express any interest in allotting channels to either Fredriksted or Christiansted, Virgin Islands, they merely note the availability of alternate channels should the Commission allot channels to the communities.